

The Honorable J. Kelley Arnold

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

PAMELA K. FITZSIMMONS,	)	
	)	
Plaintiff,	)	No. C05-5321JKA
	)	
v.	)	STIPULATED PROTECTIVE ORDER
	)	
THE COLUMBIAN PUBLISHING	)	
COMPANY dba THE COLUMBIAN,	)	
	)	
Defendant.	)	
_____	)	

Upon stipulation of the parties for a Protective Order pursuant to Rule 26(c) of the Federal Rules of Civil Procedure:

IT IS HEREBY ORDERED that the following conditions shall regulate the use and disclosure of information provided by and to the parties and their attorneys in the above-entitled matter.

1. Confidentiality. Either party may designate and mark as “Confidential, Subject to Protective Order” or “Confidential, Subject to Protective Order, Attorneys’ Eyes Only,” any documents or other discovery material which will be produced in this action which are considered by either party to be proprietary or otherwise confidential or sensitive in nature. “Confidential, Subject to Protective Order” or “Confidential, Subject to Protective Order, Attorneys’ Eyes Only” material, as used in this Order, shall refer to any so designated document, or other discovery material (including responses to document requests and interrogatories, and

DEFENDANT’S FIRST REQUEST FOR ADMISSIONS  
TO PLAINTIFF - 1  
Case No. 05-5321JKA

BARRAN LIEBMAN LLP  
601 SW SECOND AVENUE, SUITE 2300  
PORTLAND, OR 97204-3159  
PHONE (503) 228-0500 FAX (503) 274-1212

1 deposition testimony and transcripts as specified below), and all copies thereof, and shall also  
2 refer to the information contained therein. No such designation shall be made unless counsel  
3 believes in good faith that the designated material is entitled to protection under Rule 26(c) of the  
4 Federal Rules of Civil Procedure.

5       2.     Use. Documents and discovery material designated “Confidential, Subject to  
6 Protective Order” and “Confidential, Subject to Protective Order, Attorneys’ Eyes Only,” and all  
7 copies thereof, shall be maintained in confidence by counsel of record and shall be used solely  
8 for the purpose of this litigation, and shall not be used for any business, commercial,  
9 competitive, personal, or other purpose. All documents and discovery materials designated  
10 “Confidential, Subject to Protective Order” and “Confidential, Subject to Protective Order,  
11 Attorneys’ Eyes Only” shall not be disclosed to any person except as defined herein below  
12 unless expressly ordered by the Court or agreed to by the parties.

13       “Confidential, Subject to Protective Order” and “Confidential, Subject to Protective  
14 Order, Attorneys’ Eyes Only” material may be referred to in pleadings, motions, and briefs  
15 submitted to this Court, and may be used in depositions and marked as exhibits. However, no  
16 such document or testimony shall be used for any of these purposes unless it, or the portion of  
17 the Court papers in which it is revealed, is appropriately marked confidential and, if applicable,  
18 filed under seal with the Court.

19       3.     Access. “Confidential, Subject to Protective Order” and “Confidential, Subject to  
20 Protective Order, Attorneys’ Eyes Only” material shall not be disclosed by counsel of record to  
21 any person except:

- 22           (a)     the Court;
- 23           (b)     employees of the law firms of counsel of record, and any such employees shall be  
24 bound by the terms of this Order;
- 25           (c)     the parties;
- 26

STIPULATED PROTECTIVE ORDER - 2  
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1 (d) witnesses in this litigation to the extent necessary to verify, challenge, or clarify  
2 the information, or who have created the document or previously have seen the document; and

3 (e) experts or independent consultants engaged by counsel of record for the parties to  
4 assist in this litigation.

5 Each person to whom “Confidential, Subject to Protective Order” and “Confidential,  
6 Subject to Protective Order, Attorneys’ Eyes Only” material is disclosed must be informed of  
7 this Order, receive a copy, and comply with its terms. The Court shall have jurisdiction over any  
8 proceedings involving alleged improper use or disclosure of the confidential material. This  
9 Order shall not prevent the disclosure of documents to the persons who were authors or  
10 addressees of the documents or shown as having received a copy of them.

11 4. Deposition Testimony. The parties may orally designate testimony as  
12 “Confidential, Subject to Protective Order” during the course of a deposition. Either party may  
13 also designate portions of deposition transcripts as “Confidential, Subject to Protective Order.”  
14 Whenever a “Confidential, Subject to Protective Order” designation is used during the  
15 examination by deposition of any witness, the party making such a designation shall inform the  
16 witness that the use of matter or testimony so designated is subject to the terms of this Order and  
17 the witness shall agree to be bound by the terms of this Order prior to the deposition proceeding.

18 5. Objection to Designation. This Order is without prejudice to the parties’ rights to  
19 object to the designation of material as “Confidential, Subject to Protective Order” or  
20 “Confidential, Subject to Protective Order, Attorneys’ Eyes Only,” and does not shift or alter the  
21 burden of proof with respect to establishing that the material in question constitutes proprietary  
22 or otherwise confidential or sensitive information entitled to protection under Federal Rule of  
23 Civil Procedure 26(c).

24 6. Notification, Conference, and Motion. In the event that either party’s counsel  
25 disagrees with the designation of any document or discovery material as “Confidential, Subject  
26 to Protective Order” or “Confidential, Subject to Protective Order, Attorneys’ Eyes Only,”

counsel shall advise counsel for the other party in writing of their objection and identify the document or material with sufficient specificity. The parties agree to confer in good faith to resolve any dispute over the designation. If the parties cannot reach agreement, an appropriate motion shall be filed with the Court.

7. Return of Documents. Within thirty (30) days of the final resolution of this action, all documents and discovery materials which have been designated "Confidential, Subject to Protective Order" and "Confidential, Subject to Protective Order, Attorneys' Eyes Only" by either party shall be returned to them, together with all copies thereof, or counsel of record shall certify in writing that such materials, and all copies thereof, have been destroyed.

8. Duration and Modification. Insofar as the provisions of this Order restrict the communication and use of any documents, materials and/or information produced, the Order shall continue to be binding after the conclusion of this litigation, and disclosure can be made only with the express written permission of the parties or as otherwise determined by this Court.

9. Binding Order. This Order shall be binding on the parties, their attorneys, and the agents, employees, consultants and other persons employed or retained by the parties or their attorneys.

IT IS HEREBY ORDERED this 8<sup>th</sup> day of December, 2005.

/s/J. Kelley Arnold  
Honorable J. Kelley Arnold

IT IS SO STIPULATED:

ALTSCHUL LAW OFFICE, PC

BARRAN LIEBMAN LLP

By: /s/  
Andrew Altschul, WSBA No. 32025

By: /s/  
Edwin A. Harnden, WSBA No. 32478  
Brenda K. Baumgart, OSB No. 99216  
*Pro Hac Vice*

Attorney for Plaintiff

Of Attorneys for Defendant

Dated: December 5, 2005

Dated: December 5, 2005

STIPULATED PROTECTIVE ORDER - 4  
Case No. 05-5321JKA

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**CERTIFICATE OF SERVICE**

I, Brenda K. Baumgart, certify under penalty of perjury under the laws of the State of Washington that, on the \_\_\_\_ day of December, 2005 I caused to be served on the person listed below in the manner shown:

**STIPULATED PROTECTIVE ORDER**

**Andrew Altschul**  
ALTSCHUL LAW OFFICE, PC  
117 SW Taylor Street, Suite 200  
Portland, OR 97204

**Attorneys for Plaintiff**

By causing the same to be: : ☐ emailed ☐ hand delivered ☒ faxed ☒ mail  
to them a true and correct copy thereof.

By \_\_\_\_\_  
Edwin A. Harnden, WSBA No. 32478  
Brenda K. Baumgart, OSB No. 99216  
*Pro Hac Vice*  
Attorneys for Defendant The Columbian  
Publishing Company